

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Reporting Requirements for U.S. Providers of)	IB Docket No. 04-112
International Telecommunications Services)	
)	
Amendment of Part 43 of the Commission's Rules)	

To: The Commission

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation ("Sprint") hereby submits its comments in the above-captioned proceeding. Sprint takes this opportunity to commend the Commission and its staff on their continuing efforts to review, revise and streamline these reporting requirements and to eliminate obsolete and unnecessary requirements for U.S. carriers regarding their international services. Sprint offers herein its views on the proposals contained in the Further Notice of Proposed Rulemaking in this proceeding.¹ In particular, Sprint registers its concerns about two sets of issues discussed in the FNPRM: the application of reporting requirements to international Voice over Internet Protocol (VoIP) service and the confidentiality of proprietary company data provided to the Commission through these reports.

¹ Reporting Requirements for U.S. Providers of International Telecommunications Services, IB Docket No. 04-112, FCC 11-76 (rel. May 13, 2011) ("FNPRM").

I. THE PROPOSED REVISIONS IN THE TRAFFIC AND REVENUE REPORT AND CIRCUIT STATUS REPORT WILL REDUCE BURDENS FOR U.S. CARRIERS, BUT FURTHER SIMPLIFICATION IS RECOMMENDED.

Sprint supports the basic approach of the FNPRM to simplify the current reporting requirements found in Sections 43.61 and 43.82 of the Commission's rules. These revisions, particularly the elimination of billing codes in the annual Traffic and Revenue Report, will significantly reduce the burdens placed on U.S. carriers to meet these requirements. The proposed elimination of other unnecessary reporting requirements, such as the number of IMTS messages, regional totals, IMTS resale destinations, and categories of private line service will also lessen the amount of resources that must be devoted to this annual task. Sprint also supports the proposed elimination of service categories and derived circuits in the annual Circuit-Status Report.

Sprint offers in these comments some suggestions for further clarification and simplification. The proposed annual Services Report would require a filing entity to list all the international Section 214 authorizations it holds.² Sprint, as a result of ownership structure issues in the 1990s and a series of route-by-route and specific service requests, holds dozens of such authorizations. Other U.S. carriers may also hold a large number of authorizations. Listing all such authorizations on an annual basis would be a time-consuming and unwieldy process. Sprint holds authority to provide global facilities-based and resold switched telecommunications services between the United States and foreign points, with several exceptions, pursuant to a blanket Section 214 authorization.³

² FNPRM at ¶ 64.

³ *Overseas Common Carrier Section 214 Actions Taken*, 11 FCCR 10502 (1996) (granting Sprint blanket Section 214 authorization for service to all countries except those listed on the Commission's exclusion list and Argentina, Australia, France, French Polynesia, Germany, Guadeloupe, Guyana, Hungary, Italy, La Reunion, Lebanon,

Sprint believes that it would be sufficient for the Commission’s purposes that a filing entity list only such authorizations as is necessary to demonstrate that it has the requisite authority under Section 214 to provide service on any route for which it submits data in its annual Traffic and Revenue Report. This would allow a carrier such as Sprint to list its global authorization with exceptions and any subsequent authorizations obtained to cover the excepted routes.

While Sprint supports the proposal that filing entities file traffic and revenue data for common carrier data services with miscellaneous services, it also believes that an important clarification is necessary. Much of the data service that Sprint provides, as is likely the case with other major U.S. carriers, is Internet Protocol-based Multi-Protocol Labeled Switching (IP/MPLS). IP/MPLS falls squarely within the definition of non-common carrier “information service” in Section 3 of the Communications Act.⁴ As such, traffic and revenue associated with IP/MPLS should not be subject to the reporting requirements in the new proposed Section 43.62,⁵ and the Commission should make such clarification.

The proposed revised annual Circuit-Status Report would still require filing entities to report their number of active and idle circuits.⁶ The draft filing manual makes

Luxembourg, Madagascar, Martinique, Mayotte, New Caledonia, New Zealand, St. Barthelemy, St. Marin, St. Pierre et Miguleon, Wallis and Fortuna).

⁴ See 47 U.S.C. § 153 (20).

⁵ See FNPRM at Appendix D (new Section 43.62(a)(2) applies to “each common carrier engaged in providing international telecommunications service and each person or entity engaged in providing interconnected Voice over Internet Protocol service”) (emphasis added).

⁶ FNPRM at ¶ 112.

it clear that this data is to be counted on December 31 of the reporting period.⁷ Sprint questions the utility of this one-day snapshot data. The balance of active and idle fixed circuits can change rapidly based on customer needs and new service configurations. Within a matter of days or weeks, these numbers can change significantly and thus any reliance on December 31 data could present a misleading picture. Moreover, roughly half of Sprint's international bearer circuit inventory is utilized for IP-based virtual circuits for either the public Internet or IP-based virtual private networks. The "fill ratio" (*i.e.*, the amount of capacity utilized) on these bearer circuits can vary literally minute by minute, based on customer usage and such factors as the time of day. A snapshot of the active versus idle status of circuits used for IP networks is thus virtually meaningless.

Sprint must devote resources to retrieve this snapshot data because it does not routinely tabulate it. Because of the low usefulness of this data and the burden on carriers to compile it, the Commission should not require filing entities to distinguish between active and idle circuits in their annual Circuit-Status Reports, but rather report only total circuit capacity for each route.

II. REPORTING REQUIREMENTS FOR VOIP SHOULD BE LIMITED IN THEIR APPLICATION TO "PSTN-INVOLVED" TRAFFIC.

Sprint agrees with the assessment in the FNPRM that international calls carried over Voice over Internet Protocol (VoIP) interconnected to the public switched telecommunications network (PSTN) comprise a significant and growing component of the U.S. international voice traffic market.⁸ Because much of this traffic may go

⁷ Draft Manual for Filing Section 43.62 Annual Reports, DA 11-1182 at ¶ 158 (rel. July 11, 2011).

⁸ FNPRM at ¶ 116.

unreported,⁹ the FNPRM's proposed new Section 43.62 would require interconnected VoIP providers to file the annual Traffic and Revenue Report with data on international interconnected VoIP service.¹⁰ Sprint expresses no opinion in these comments as to whether the Commission's jurisdiction reaches interconnected VoIP in this context. Instead, Sprint offers these views on the balance of costs and benefits if the Commission proceeds to expand the coverage of its international reporting requirements into the IP world.

A service provider that enters into the U.S. consumer VoIP market to compete against established telephone companies and long-distance service providers offers a service that is in many ways similar to how plain old telephone service has offered international calling capabilities. Because many countries continue to outlaw toll by-pass and still require international settlements of some nature for PSTN traffic between those countries and foreign points, these new providers will be faced with the necessity of metering traffic on many routes. These providers may in fact charge their customers on a metered basis for international calls, based on destination and duration.

On IP-based business service platforms, voice is merely one application among many. Many business users for the last several years have found it expedient to connect their internal, IP-based voice networks through their PBXs to interconnect to the PSTN. In the wake of advancing IP technology and in response to customer demand, U.S. service providers have moved to meet customers' needs for higher quality, seamless voice communications that provide both on-net (private, internal) and off-net (PSTN-interconnected) VoIP capabilities. Sprint's business customer product is based on the

⁹⁹ *Id.* at ¶ 120.

¹⁰ See FNPRM at Appendix D (new Section 43.62(a)(2)).

Session Initiation Protocol (SIP) and is referred to as SIP Trunking. SIP Trunking also meters off-net international calls for purposes of customer invoicing.

In the not too distant future, however, interconnection for the purpose of routing international calls increasingly will be achieved between IP networks themselves in the “cloud,” rather than through the PSTN. The distinction between “public network” calls and “private network” calls will begin to erode. In other words, the “on-net” will begin to subsume the “off-net.” With this accomplishment and the increasing bypass of the PSTN, the impetus for metering of international calls will diminish. Tracking origination and termination in terms of physical geography will be unnecessary and, if required by regulation, will likely greatly increase the costs of this service.

Sprint thus strongly suggests that any approach toward international reporting requirements that may be extended to VoIP keep this likely future in mind. One way to keep hidebound regulations from constricting the growth of international interconnected VoIP is to focus on the level of involvement with the PSTN. If the PSTN is not used for the international leg of the call, if international settlements with foreign carriers are not at issue, and if an off-net call resembles a local call inasmuch as the PSTN is concerned, then such service should not be subject to any international reporting requirements, even though the same provider may have other international interconnected VoIP traffic that does not meet this criteria and thus would be reported. Sprint urges the Commission to adopt these limitations now in order to preclude uncertainty as to the reach of its Part 43 international reporting requirements as the technology for international VoIP continues to advance.

III. PROPRIETARY DATA PROVIDED BY FILING ENTITIES SHOULD HAVE ITS CONFIDENTIALITY PROTECTED.

Sprint is deeply concerned by the discussion of confidentiality in the FNPRM.¹¹ While Sprint does not take issue with the Commission in these comments as to its expressed need for route-by-route data,¹² it is an entirely different matter to suggest that this data should be made readily available to the public at large on a company-specific basis. The aggregated data for all U.S. carriers compiled by the Commission may be the Commission's data, but the data supplied by each filing entity is proprietary to that entity and is supplied to the government only because it is required by regulation. The regulatory process should not be one that converts proprietary business information into community property. The Commission should thus continue to "favor the free availability of information," so long as the business interests of those parties subject to its regulation are not damaged by such availability.

Particularly troublesome is the dismissal of claims to confidentiality of filed data as "perfunctory and conclusory,"¹³ as if the filing party must not only address the requirements of Section 0.459 of the Commission's rules, but should also provide a roadmap to the parties seeking this information under the Freedom of Information Act (FOIA) as to how this information could be used to the detriment of the filing party's interests. In these comments, which are not specific to any particular FOIA request, Sprint will lay out a specific concern about how the release of such data would be counter to its interests, and to the U.S. interests generally.

¹¹ *Id.* at ¶¶ 132-142.

¹² *See id.* at ¶¶ 30-34.

¹³ *See id.* at ¶ 134.

The preface to this discussion is the notion that the Commission is not the sole potential source of information about the activities of U.S. carriers. Much information about U.S. carriers' international route traffic is in the hands of foreign regulators and corresponding carriers. It is the combination of information from various sources from which a potential threat to U.S. interests can arise. The Commission's International Bureau staff is well aware of the desires of some parties in international fora to restrict "hubbing" or re-origination, whereby carriers route traffic through intermediate carriers in third countries to take advantage of lower termination rates from such third countries to the destination country, *i.e.*, least-cost routing.¹⁴ These same parties also operate on a country-by-country basis seeking to elevate the amount of settlement payments made by U.S. carriers to foreign correspondents. Parties that have sought Sprint's proprietary data through the FOIA process are in fact often employed by foreign governments and carriers seeking to exploit differences between declared settlements totals and the route traffic data reported to the Commission, which includes data on traffic that is re-originated through intermediate carriers in third countries. If these parties can obtain access to U.S. carriers' route-by-route traffic data and can use such data successfully in legal and regulatory proceedings in foreign countries, the result would be higher settlement payments by Sprint and other U.S. carriers, and higher costs for U.S. consumers making international calls.¹⁵

¹⁴ See International Telecommunications Union Working Group to Prepare for the 2012 World Conference on International Telecommunications, CWG-WCIT12/TD – 31 Rev.3, 25 May 2011 (proposed definitions of "hub" and "hubbing," contributions of the Global Voice Group).

¹⁵ Because "switched hubbing" generally results in lower settlement costs that can be passed on to consumers, it is specifically authorized by the Commission on international routes not subject to the International Settlements Policy. See 47 CFR § 63.17.

While the elimination of billing codes in the annual Traffic and Revenue Report may make this data somewhat less clear-cut, on many country routes the bulk of the traffic remains ordinary IMTS, a fact that is well known. The potential for harm thus remains if proprietary route-by-route traffic and revenue data is disclosed on a general basis. Similarly, route-by-route information on circuit status could be exploited for anticompetitive purposes; there is simply no good reason why this information should be handed over to competitors if non-disclosure is requested by the filing entity. The Commission should thus scrutinize requests for disclosure of route-by-route company proprietary data very closely, continue to give substantial consideration to the requests of filing entities for confidential treatment of their proprietary data, and not adopt any policy that would favor general availability of this data.

IV. CONCLUSION

For the reasons given above, Sprint respectfully requests that the Commission adopt the proposals and make the clarifications explained in the foregoing.

Respectfully submitted,

SPRINT NEXTEL CORPORATION

By: 

David A. Nall

900 7th St., NW, Suite 700
Washington, DC 20001
(703) 592-5209

August 18, 2011